

**STATE BOARD OF EDUCATION  
STATE OF GEORGIA**

**JULIA YEARWOOD,**

**Appellant,**

**v.**

**GREENE COUNTY BOARD  
OF EDUCATION,**

**Appellee.**

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**CASE NO. 2008-12**

**DECISION**

This is an appeal by Julia Yearwood from a decision by the Greene County Board of Education ("Local Board") non-renewing her employment contract based upon unprofessional, rude and inappropriate behavior with students, parents and the principal; insubordination; and failure to maintain appropriate classroom management. Appellant asserts five errors: (1) the Local Board failed to facilitate her Level One Grievance, (2) the Local Board allowed and relied upon hearsay evidence, (3) the Local Board erred by failing to place Appellant on extended phase after her first formal evaluation, (4) the Local Board erred by denying Appellant a continuance, (5) and the Local Board erred by non-renewing Appellant's employment contract because she was assigned to teach the gifted program when she did not possess a gifted certification. For the reasons set forth below, the decision of the Local Board is affirmed.

**I. PROCEDURAL BACKGROUND**

Appellant was employed as a teacher at Carson Middle School under Principal Garrick Askew. On or about April 13, 2007, Appellant was timely notified that her annual contract for the 2007-2008 school-year was not being renewed. Appellant appealed the non-renewal of her employment contract. A tribunal for the School Board was convened at which Appellant was provided the opportunity to present evidence and to subpoena witnesses. At the conclusion of the hearing, the tribunal unanimously voted to uphold the non-renewing Appellant's employment contract. Appellant has appealed the decision of the Local School Board to the State Board of Education.

**II. FACTUAL BACKGROUND**

In the early part of the 2006 school year, Askew received complaints from several parents regarding Appellant's inappropriate interaction with students. Askew met with Appellant and the parents regarding these concerns. During these meetings, Askew observed Appellant engage in unprofessional and rude behavior with the parents. Furthermore, Askew concluded that Appellant was insubordinate and rude in her interaction with him.

In addition, the administration performed observations of Appellant's classroom. Based upon his observations, Askew concluded that Appellant exhibited poor classroom management. Cassie Ollendick, a school counselor whose office was across the hall from Appellant, also observed Appellant's poor class room management and inappropriate interaction with students. Ollendick heard a lot of yelling from Appellant's classroom, which prompted her on a weekly basis to go over to Appellant's classroom.

On or about December 12, 2006, Askew placed Appellant on a Performance Development Plan ("PDP") based upon her insubordination, and inappropriate interaction with parents, students and the administration. While Appellant improved in some categories, Askew concluded Appellant did not improve sufficiently to warrant the renewal of Appellant's contract.

### **III. ERRORS ASSERTED ON APPEAL**

#### **1. Level One Grievance.**

Appellant asserts that the Local Board ignored her Level One Grievance thereby violating her grievance rights in violation of O.C.G.A. § 20-2-131(5) and O.C.G.A. § 20-2-132(1). However, O.C.G.A. § 20-2-131(5) only provides the objective and purpose of the complaint procedure. O.C.G.A. § 20-2-132(1) only provides for the primary goal of the complaint procedure. Neither statute provides Appellant with a substantive individual right. Moreover, Appellant's complaint failed to specifically identify factual allegations indicating how her employment relationship was affected by an alleged violation, misinterpretation, or misapplication of statutes, policies, rules, regulations, or written agreements.

Furthermore, O.C.G.A. § 20-2-989.5 through O.C.G.A. § 20-2-989.11 requires a Local Board to provide teachers with a complaint policy. A "complaint" "means any claim by a certified employee of any local unit of administration **who is affected in his or her employment relationship** by an alleged violation, misinterpretation, or misapplication of statutes, policies, rules, regulations, or written agreements of the local unit of administration with which the local unit of administration is required to comply." O.C.G.A. § 20-2-986(3) (emphasis added).

To the extent Appellant's complaint is construed to be complaining about her job performance, such a complaint is not subject to complaint under the complaint policy. See O.C.G.A. § 20-2-989.7(a). Furthermore, Appellant was provided a response from the Local Board finding that she had not asserted a valid complaint pursuant to O.C.G.A. § 20-2-989.5 through O.C.G.A. § 20-2-989.11. Finally, pursuant to O.C.G.A. § 20-2-989.11, the Appellant failed to timely file her appeal to the State Board within thirty (30) days after the December 18, 2006 decision. For these reasons, this alleged error is without merit.

## **2. Hearsay Evidence.**

Appellant asserts that the tribunal erred by allowing and relying upon hearsay evidence. Hearsay evidence has no probative value and cannot be used to establish any fact in an administrative hearing. See McGahee v. Yamaha Motor Mfg. Corp., 214 Ga. App. 473, 474 (1994). Thus, since the Local Board has the burden of proof in seeking to dismiss a teacher, hearsay evidence cannot be relied upon. O.C.G.A. § 20-2-940(e)(4). However, the State Board is required to affirm the decision of the Local Board if there is any evidence to support the decision of the Local Board, unless there is abuse of discretion or the decision is arbitrary and capricious as to be illegal. See Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976).

In the case sub judice, the Local Board offered evidence of statements made by students to their parents which is clearly hearsay. However, the hearing officer allowed this evidence solely for the purpose of showing course of conduct. See O.C.G.A. § 24-3-2. Thus, such evidence was properly allowed and the tribunal was properly instructed as to its limited purpose.

More importantly, evidence from both the administration and parents regarding Appellant's inappropriate, insubordinate and unprofessional behavior was properly allowed and does not constitute hearsay evidence.<sup>1</sup> Thus, some admissible and probative evidence exists in the record supporting the tribunal's decision. For these reasons, this alleged error is without merit.

## **3. Extended Phase.**

Appellant asserts that the Local Board erred by non-renewing her employment contract because she was not placed on "extended phase" after being placed on her PDP. Appellant has failed to cite any legal authority supporting her assertion that a Local Board is required to place a teacher on "extended phase" after a PDP. Thus, this alleged error is without merit.

## **4. Denial of a Continuance.**

Appellant asserts that the Local Board erred by denying her a continuance. The granting of a continuance is within the sound discretion of the Local Board, and absent a showing of clear abuse, is not grounds for reversal. Talmadge v. Elson Properties, 279 Ga. 268 (2005). Appellant asserts that a continuance should have been granted in order to present witnesses who were not

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<sup>1</sup> Had the Local Board only non-renewed Appellant's employment contract for her conduct with students and not offered any evidence from students or other witnesses who observed this conduct, then the record would not contain evidence to support the decision. However, such is not the case.

available once the hearing continued beyond normal business hours. However, the record fails to show that Appellant properly subpoenaed witnesses who failed to appear. Thus, this alleged error is without merit.

#### **5. Lack of Possession of Gifted Certification.**

Appellant asserts that the Local Board erred by non-renewing her employment contract because she was involuntarily placed in a gifted teacher position without possessing a gifted certification. The Georgia Professional Standards Commission (“PSC”) does not provide for a gifted certification, but does provide for a gifted-field endorsement. See PSC Rules 505-2-.12; 505-2-.158. Appellant is correct that a local school board may be required to appropriately assign teachers to an in-field assignment for which he or she has been properly endorsed. See PSC Rules 505-2-.12, 505-2-.26. Appellant is also correct that a gifted in-field endorsement is required in order to provide gifted instruction. However, the PSC rules do not provide a legal basis for Appellant’s rights under the Fair Dismissal Act.<sup>2</sup> The Local Board’s assignment of Appellant to a gifted teaching assignment without the proper endorsement may have been a proper complaint pursuant to O.C.G.A. § 20-2-989.5 et seq. at the time the assignment was made. However, as set forth above, Appellant failed to timely file and appeal such a complaint. More importantly, Appellant’s classroom management, inappropriate conduct and insubordination are unrelated to whether she properly possessed a gifted in-field endorsement. Thus, this alleged error is without merit.

#### **IV. CONCLUSION**

Based upon the reasons set forth above, it is the opinion of the State Board of Education that the evidence supports the decision of the Local Board, and it is therefore affirmed.

This \_\_\_\_ day of November 2007.

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WILLIAM BRADLEY BRYANT  
VICE CHAIRMAN FOR APPEALS

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<sup>2</sup> If Appellant had been non-renewed because she was not qualified or did not possess the ability to teach students in the gifted program her argument would warrant consideration. However, the reasons for Appellant’s non-renewal are not based upon her qualifications or ability to teach gifted students.